

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

SPENCER J. DOBBINS,	)	
	)	
Petitioner	)	
	)	
v.	)	CAUSE NO. 3:08-CV-071 RM
	)	
SUPERINTENDENT,	)	
	)	
Respondent	)	

OPINION AND ORDER

Spencer J. Dobbins, a *pro se* prisoner, filed this second habeas corpus petition to challenge his criminal conviction in the Marion County Superior Court, cause number 49G04-9611-CF-168656. Previously, in Dobbins v. Buss, 3:05-cv-0709 (N. D . Ind. , filed October 31, 2005), Mr. Dobbins sought to challenge the same conviction he is challenging here. Final judgment was entered in that case on April 26, 2006.

Because this is a second or successive petition, this court has no power to hear this habeas corpus petition challenging the same conviction. Regardless of whether the claims that Mr. Dobbins now attempts to present are new or whether they were presented in his previous petition, this petition must be dismissed. "A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed." 28 U.S.C. § 2244(b)(1). Therefore, any claims previously presented must be dismissed.

Additionally, for any claim not previously presented, "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant

shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3). Mr. Dobbins hasn’t obtained an order from the court of appeals permitting him to proceed with any previously unrepresented claims. “A district court must dismiss a second or successive petition . . . unless the court of appeals has given approval for its filing.” Nunez v. United States, 96 F.3d 990, 991 (7th Cir. 1996) (emphasis in original). Therefore, any claims not previously presented must also be dismissed.

For the foregoing reasons, this case is DISMISSED for lack of jurisdiction.

SO ORDERED.

ENTERED: April 7, 2008.

/s/ Robert L. Miller, Jr.  
Chief Judge  
United States District Court